

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
February 15, 2007
1:00 p.m.

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, February 15, 2007 in Nashville, Tennessee at 1:00 p.m. Chairman John Jones, Commissioner Bond and Commissioner Harlan Mathews were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens, SAC Mike Cawthon, ASAC Andy Woodall, SA Al Watson, SA Brad Allison, SA Jason Poore and SA Amy Farmer from the staff, were present.

1. The Minutes for January 18, 2007 Commission Meeting were approved.

2. RETAIL PACKAGE STORES

**A. MIDWAY DISCOUNT LIQUOR AND WINE
GALLATIN, TENNESSEE (SUMNER COUNTY)**

Licensee: Bonita Parker

Before the Commission is a request for a transfer of location of the retail package store currently located at 976 Grassland Place, in Gallatin, Tennessee. Ms. Parker wishes to move to 940 Memory Lane, Suite 100 in Gallatin. The request is based upon the destruction of her store at the old location due to last year's tornadoes. If approved, the licensee requests from the Commission that the business name be **changed to Plantation Fine Wines and Spirits**. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Newspaper Affidavit;
- c. Acknowledgement of the Rules and Regulations.

Discussion/Action Taken:

Steve Parker was present at the meeting. Director Elks reviewed the application for the Commissioners. Director Elks recommended approval upon receipt of the TABC Inspection, Acknowledgement of the Rules and Regulations and the Newspaper Affidavit. Commissioner Mathews made a motion to approve upon receipt of the remaining documentation. Commissioner Bond seconded the motion and it passed with 3 ayes.

Commissioner Mathews made a motion to approve the name change. Commissioner Bond seconded the motion and it was approved with 3 ayes.

**B. EAST END LIQUORS
FAYETTEVILLE, TENNESSEE (LINCOLN COUNTY)**

Seller: Gregg Ellis
Applicant: Linda Wolaver

Before the Commission is a request for a transfer of ownership of the retail package store located at 931 Winchester Highway, in Fayetteville, Tennessee. Linda Wolaver intends to purchase the business from Gregg Ellis Lee for \$80,000. Ms. Wolaver intends to initially invest \$80,000 in the business; financing is based upon a home equity loan with Regions Bank of Fayetteville. Ms. Wolaver will be leasing the premises from the seller, Gregg Ellis for \$600/month through October, 2012. All documentation has been submitted with the exception of the following:

- a. All pages of the Bill of Sale;
- b. Resignation from the Fayetteville Golf and Country Club.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners and recommended approval upon submission of the resignation of Ms. Linda Wolaver from the Fayetteville Country Club. Commissioner Bond made a motion to approve. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**C. DOWNTOWN WINE AND SPIRITS, LLC
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Applicant: Downtown Wine and Spirits, LLC
Members: David Ewan and Trinity McDermott

NEW: The applicant is requesting its last extension of time (30 days) from the Commission to open. The application was conditionally approved at the October, 2006 subject to the receipt of the documentation listed below.

Before the Commission is a request for a new retail store to be located at 407 S. Gay Street in Knoxville, Tennessee. Mr. David Ewan and Trinity McDermott intend to initially invest \$75,000, with Mr. Ewan owning 60%, and Ms. McDermott owning 40%. The business would be operated as an LLC. Financing is based personal funds in Amsouth and a brokerage account. 411 Gay Street, LLC is leasing the location to Downtown Wine and Spirits, LLC for \$1500.00 per month. All documentation has been submitted with the exception of the following:

- a. Written approval from landlord to use property as retail store;
- b. Term of lease;
- c. Verification of independent financing for Trinity McDermott (Checking account is a joint account with Mark McDermott, who is an LBD licensee);
- d. TABC Inspection;
- e. Acknowledgement of the rules and regulations; and
- f. Use and Occupancy permit.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners and stated that David Ewan and Trinity McDermott have requested a 30-day extension because they have not been able to complete the building at their location. She stated that the staff issued a 30-day extension after the 90 days had lapsed. They are coming to the Commission for their last 30-day extension of time. Director Elks stated that if they are not able to open within the next 30 days, then the approval is deemed to be withdrawn and the applicant will have to reapply. Director Elks stated that the staff has, in the past, incorporated as many of the documents as possible into the new application and has the applicant update the application form. Director Elks stated that if they were unable to open within the next 30 days, then the new application would be placed on the agenda for the next Commission meeting or as soon as they wanted. Chairman Jones made a motion to approve the 30-day continuance. Commissioner Mathews seconded the motion and it passed with 3 ayes.

3. WINERIES

**A. ARRINGTON VINEYARDS
ARRINGTON, TENNESSEE (WILLIAMSON COUNTY)**

Applicant: Arrington Vineyard, LLC

Members: Leon Eric Brooks, III; Richard Kipling Summers;
Frederick Mindermann

Before the Commission is a request for a new winery to be located at 6211 Patton Road in Arrington, Tennessee. Mr. Leon Eric Brooks, III, Richard Kip Summers and Frederick Mindermann intend to initially invest \$2 million dollars. Financing is based upon the personal funds of Mr. Brooks, who is loaning the start-up money to the applicant, Arrington Vineyard, LLC. Arrington Vineyards Real Estate, LLC will be leasing the property to the applicant. If approved, Mr. Brooks will own 50% of the stock, and Mr. Summers and Mr. Mindermann will each own 25%. All documentation has been submitted with the exception of the following:

- a. Exhibit A and B to the Operating Agreement;
- b. Lease from Arrington Vineyards Real Estate LLC to Arrington Vineyards, LLC;
- c. TABC Inspection;
- d. Acknowledgement of the Rules and Regulations;
- e. Use and Occupancy permit
- f. Loan between Brooks and Summers/Mindermann.

Discussion/Action Taken:

Kip Summers was present at the meeting. Director Elks reviewed the application for the Commissioners and recommended approval upon submission of the TABC Inspection, Acknowledgment of the Rules and Regulations and the Use and Occupancy permit. Commissioner Mathews made a motion to approve. Commissioner Bond seconded the motion and it passed with 3 ayes.

**B. COREY IPPOLITO WINERY
BLOUNTVILLE, TENNESSEE (SULLIVAN COUNTY)**

Applicant: Kevin and Nancy Corey

Before the Commission is a request for a new winery to be located at 533 Rogers Oakdale Private Drive in Blountville, Tennessee. Mr. and Mrs. Corey intend to initially invest \$25,000: financing is based upon a Farm Credit Service Line of Credit. Mr. and Mrs. Corey own the property where the winery will be located. All documentation has been submitted.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners and recommended approval. Chairman Jones made a motion to approve. Commissioner Mathews seconded the motion and it passed with 3 ayes.

4. ADMINISTRATIVE CITATIONS AND CONTESTED CASES

A. ANGEL VINICIO GOMEZ

On January 8, 2007, Angel Vinicio Gomez sold an alcoholic beverage to a nineteen year-old minor at the Agave Azul Mexican Grill and Tequila Bar, in Knoxville, Tennessee. TABC SA Jason Poore witnessed the transaction. To date, the Respondent has not paid the citation.

Discussion/Action Taken:

Assistant Director Carolyn Smith stated that Angel Vinicio Gomez has paid the citation; so therefore, no action is necessary.

B. REBECCA SANDERS

On January 26, 2007, Rebecca Sanders sold an alcoholic beverage to a nineteen year-old confidential informant at the Strike and Spare, in Nashville, Tennessee. TABC SA Brad Allison witnessed the transaction. To date, the Respondent has not paid the citation.

Discussion/Action Taken:

Assistant Director Carolyn Smith stated that Rebecca Sanders has paid the citation; so therefore, no action is necessary.

C. JEFFREY RUSSELL JOHNSON

On January 26, 2007, Jeffrey Russell Johnson sold a bottle of Jack Daniels to a nineteen year-old confidential informant at Frugal MacDougals, in Nashville, Tennessee. TABC SA Brad Allison witnessed the transaction. To date, the Respondent has not paid the citation.

Discussion/Action Taken:

Jeffrey Russell Johnson and Special Agent Brad Allison were present at the meeting. Director Elks stated that on January 26, SA Brad Allison went to Frugal MacDougals with a 19 year old confidential informant who was sent into Frugal MacDougals to attempt to purchase alcohol. He was able to purchase a 200 ml bottle of Jack Daniels from Mr. Johnson. Mr. Johnson, pursuant to that transaction, did receive an administrative citation.

SA Brad Allison testified that on January 26, 2007 at approximately 1520 hour, he conducted a minor compliance check at Frugal MacDougals in Nashville. During this investigation, he stated he used a 19 year old while male confidential informant. SA Allison testified he entered the establishment at approximately 1520 hour and his informant entered behind him approximately one or two minutes later. The informant went to Mr. Johnson, who was working the cash register, and asked where the half-pints of Jack Daniels were located. Mr. Johnson stated that they were behind the register where a female was working, but he could pay at his register and the other clerk would actually get the bottle for him. The informant presented his Tennessee driver's license which shows his real age to be 19 and he looked at it for approximately 2 or 3 seconds and returned it to the informant before there was an exchange of money and then received informant's money.

The informant paid Mr. Johnson for the bottle and went over to the next counter where the female clerk bagged the bottle and gave it to the informant after she was instructed to do so by Mr. Johnson. At that point, the informant turned around and gave the bottle to SA Allison. SA Allison then identified himself to Mr. Johnson as a TABC agent and issued Mr. Johnson an administrative citation.

Mr. Johnson stated that the main reason he appeared before the Commission is, that when SA Allison presented him with the bottle and asked if he remembered selling it. Mr. Johnson stated he did and he told SA Allison that he believed it said 1984. SA Allison had told him it was 1987. He stated that later while they were filling out paperwork and he inquired for the ID, SA Allison would not show it to him and told Mr. Johnson that the ID would be at the Commission meeting.

Chairman Jones made a motion to continue the matter to the March Commission meeting and have the informant and the ID at the meeting. Commissioner Mathews seconded the motion and it passed with 3 ayes.

D. BRAD SCOTT HUBBS

On December 31, 2006, Brad Scott Hubbs sold alcoholic beverages to a visibly intoxicated individual, William Gipson at Michael's, in Knoxville, Tennessee. TABC Jason Poore observed Mr. Gipson's intoxicated state and investigated the transaction. To date, the Respondent has not paid the citation.

Discussion/Action Taken:

Assistant Director Smith stated that Brad Scott Hubbs was not present at the meeting. Assistant Director Smith stated that it was her understanding that Mr. Hubbs would be at the hearing to contest the citation. Assistant Director Smith noted that it does state on the citation that failure to appear, answer or to satisfy the citation, will be the same as a conviction and will result in the denial, suspension or revocation of the server permit and that Mr. Hubbs was given the citation when it was issued. In light of the fact that he was not present, the staff requested that the Commission either suspend or revoke his server permit.

SA Poore testified that on December 31, 2006 at approximately 11:15 p.m., he and the Knoxville Police Department entered Michael's Restaurant. At approximately 11:45 p.m. Officer Huskey advised that he observed a gentleman staggering near the bar. SA Poore witnessed that Mr. William Gipson was unsteady on his feet and fell into him. SA Poore testified that he helped William Gipson back onto his feet but Mr. Gipson staggered around some more and headed toward the door. He testified that at no time, did any of the management or personnel with Michael's establishment try to stop Mr. Gipson. At that time, SA Poore and Officer Huskey escorted Mr. Gipson out of the establishment. SA Poore testified that when they got him to the front porch area of Michael's, Officer Huskey

asked him for his ID. Mr. Gipson had slurred speech, was unresponsiveness to their questions and was very unsteady on his feet. He testified that when they asked him for his ID, he handed them his cell phone. When Mr. Gipson pulled his wallet out, he was looking through it and finally ended up pouring part of his wallet out on the ground. Officer Huskey took the wallet and removed the ID out of the wallet and returned the wallet to William Gipson. Officer Huskey and SA Poore leaned him against the wall while SA Poore helped pick up the contents he dropped on the ground and placed the contents back into his wallet and either handed it to Mr. Gipson or placed it in Mr. Gipson's coat pocket.

Officer Huskey and SA Poore asked Mr. Gipson who he was there with and he said no one. Officer Huskey and SA Poore asked him where he was going and he pointed to the vehicles to the backside of Michael's, to the right side of the building. At that time, Officer Huskey placed him under arrest for public intoxication. Once they stepped him down to the parking lot level and Officer Huskey began filling out his arrest report, SA Poore took the identification back inside the establishment and asked one of the servers if she could check their system and see if William Gipson had an open tab. She checked the system and pulled his tab and she printed it for SA Poore. The printout stated that William Gipson opened the tab at 11:00 p.m. At 11:52 p.m. Officer Huskey and SA Poore had placed him into custody. The tab showed that in 52 minutes he had been served four (4) glasses of wine, two (2) shots of Yeager and a Red Bull. SA Poore stated that Mr. Hubbs did admit that he had sold to Mr. Gipson the four (4) glasses of wine and two (2) shots of Yeager and a Red Bull for the girl that was standing next to him.

Chairman Jones made a motion that Mr. Hubbs has 30 days from February 15, 2007 to pay a fine of \$250.00 for the citation or face suspension of his permit. If at the end of that time, he has not paid the \$250.00 fine; his permit would be suspended for six (6) months. Commissioner Mathews seconded the motion and it passed with 3 ayes.

Chairman Jones requested that a copy of the ownership information of Michael's file be copied and mailed to each Commissioner in the event that the Michael's case be brought back before the Commission.

E. AUSTIN THOMAS SMITH

On January 12, 2007, Austin Thomas Smith sold a bottle of wine to an eighteen year-old confidential informant at The Seller, in Nashville, Tennessee. TABC SA Amy Farmer witnessed the transaction. Identification was not checked. To date, the Respondent has not paid the citation.

Discussion/Action Taken:

Executive Director Danielle Elks stated that Austin Thomas Smith has paid the citation; so therefore, no action is necessary.

F. SHEA ANN LOOMIS

On January 12, 2007, Shea Ann Loomis sold an alcoholic beverage to an eighteen year-old confidential informant at The Camel, in Nashville, Tennessee. TABC SA Brad Allison witnessed the transaction. To date, the Respondent has not paid the citation.

Discussion/Action Taken:

Assistant Director Carolyn Smith stated that Shea Ann Loomis has paid the citation; so therefore, no action is necessary.

G. JASON RYAN WEBSTER

On January 12, 2007, Jason Ryan Webster sold an alcoholic beverage to an eighteen year-old confidential informant at Hillwood Strike and Spare, in Nashville, Tennessee. TABC SA Brad Allison witnessed the transaction. To date, the Respondent has not paid the citation.

Discussion/Action Taken:

Assistant Director Carolyn Smith stated that Jason Ryan Webster has paid the citation; so therefore, no action is necessary.

H. MICHAELA ANNE HUGOBOOM

On December 28, 2006, Michaela Anne Hugoboom sold an alcoholic beverage to an eighteen year-old confidential informant at Michael's in Knoxville, Tennessee. KPD Officer Matiak witnessed the transaction. To date, the Respondent has not paid the citation. The Respondent is represented by an attorney, Lawrence Ault, who has requested a continuance until the April, 2007 Commission meeting. Mr. Ault indicates that she has a health condition and also must appear in criminal court this month; further, he has a jury trial set for the third Thursday of March, 2007.

Discussion/Action Taken:

Assistant Director Carolyn Smith stated that she has been contacted by Ms. Michaela Anne Hugoboom's attorney who requested a continuance to the April Commission meeting based on the fact that Ms. Hugoboom has some health issues and coming to the meeting today would be difficult for her. Ms. Hugoboom also had another court date today. They are requesting that it be continued to the April meeting because in March the attorney has a jury trial set for the week of the third Thursday in March.

Chairman Jones made a motion to defer the matter until the April Commission meeting. Commissioner Bond seconded the motion. The motion passed with 3 ayes.

I. DAVID IDOL, JR.

Mr. Idol has appealed the decision of TABC staff denying his application for a server permit, and has requested a hearing. TABC staff denied Mr. Idol's application for a permit based upon a conviction for embezzlement on April 6, 2001. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of embezzlement within eight years of the date of the application.

Discussion/Action Taken:

David Idol, Jr. was present at the meeting. Assistant Director Carolyn Smith stated that Mr. Idol submitted an application for a server permit and the application was denied by the staff. Mr. Idol had provided information on his application that he had an embezzlement conviction on April 6, 2001. That conviction requires that an eight (8) year period between the date of the conviction and the eligibility date for a server permit. It was established that he would not be able to obtain a server permit until April 2009; therefore he has requested this hearing.

David Idol, Jr. stated that he appealed the decision because the actual event occurred in 1999 and was resolved through a plea agreement, not an actual conviction. In addition he received a letter from the federal government stating that all of his rights had been restored.

Assistant Director Carolyn Smith stated that the statute provides that the waiting period for embezzlement is 8 years from the date of the conviction. She further stated that it is not just limited to felonies. Assistant Director Smith stated that the felony conviction time is four (4) years, but there are certain misdemeanors or felonies that would be eight (8) years and it is the date of the conviction. Assistant Director further stated that if the conviction had been expunged, it would have been a different situation.

Commissioner Bond made a motion to uphold the denial of the server permit. Commissioner Mathews seconded the motion and it passed with 3 ayes.

- 5. SPECIAL OCCASION LICENSES**
- 6. CONSUMER EDUCATION SEMINAR LICENSES**
- 7. PERSONNEL** – Director Elks advised the Commission that the Agent's In Service Training is set for April 29 through May 4, 2007. Director Elks also stated the date of the National NCSLA meeting will be June 3 through June 7, 2007 and will be held in Seattle, Washington.
- 8. BUDGET**
- 9. CONSENT ORDERS**
- 10. PENDING MATTERS LIST**
- 11. MISCELLANEOUS—AUDIT REVIEW**
- 12. DATE OF NEXT MEETING – March 15 and April 19, 2007 at 1:30 p.m.**

There being no further business the meeting was adjourned.

Shari Danielle Elks
Executive Director

John A. Jones
Chairman